



Billing Code No. 4910-9X

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. DOT-OST-2019-0103]

Privacy Act of 1974; System of Records;

DOT/FMCSA-011; Military Under 21 Pilot Program System of Records

AGENCY: Department of Transportation, Federal Motor Carrier Safety Administration.

ACTION: Notice of a New System of Records.

SUMMARY: In accordance with the Privacy Act of 1974, the Department of Transportation proposes to issue a new Department of Transportation system of records titled, “Department of Transportation Federal Motor Carrier Safety Administration - 011 – Military Under 21 Pilot Program System of Records.” FMCSA is required by Section 5404 of the Fixing America’s Surface Transportation Act, 2015 (FAST Act), to conduct a pilot program to allow 18- to 20-year-old persons with military driving experience to operate CMVs in interstate commerce. The pilot program seeks to determine the safety benefits or risks posed by military service members aged 18, 19, and 20 with specialized training in heavy vehicle operations operating a freight-carrying CMV in interstate commerce as compared to current entry-level commercial motor vehicle drivers aged 21-24 when operating a freight-carrying CMV in interstate commerce. The goal of this pilot program is to determine whether the group of under-21 military CDL holders operating in interstate commerce have similar or better safety performance outcomes than the 21-24 year old entry level drivers operating in interstate commerce.

The information collected as part of the pilot program is necessary to: (1) determine the eligibility of drivers to participate in the pilot program; (2) effectively implement and monitor

the pilot program, given that participating under-21 military drivers will be participating with an exemption; (3) contact drivers if necessary throughout the pilot program (e.g., for follow-on questions or clarification on data), and (4) to conduct analysis on the safety performance of the participating drivers and make safety decisions accordingly. Specific details concerning eligibility for pilot program participation were previously published at 81 FR 56745 (September 21, 2016); 83 FR 31631 (July 6, 2018); and 83 FR 60950 (November 27, 2018). Pursuant to 49 U.S.C. § 31315(c)(3) and 49 C.F.R. § 381.515, the FMCSA Administrator has the authority to immediately revoke the participation of a motor carrier, CMV, or driver in the Under 21 Military Pilot Program for failure to comply with the program's terms and conditions. Participation in the Under 21 Military Pilot Program does not provide for any right, entitlement, or benefit.

DATES: Written comments must be submitted on or before [INSERT DATE 30 DAYS AFTER PUBLICATION.] The modified system will be effective immediately with the exception of the modified routine use which will be effective [INSERT DATE 30 DAYS AFTER PUBLICATION].

ADDRESSES: You may submit comments, identified by docket number DOT-OST-2019-0103 by one of the following methods:

Federal e-Rulemaking Portal: <https://www.regulations.gov>

Fax: (202) 493-2251.

- Mail: Department of Transportation Docket Management, Room W12-140, 1200 New Jersey Ave. SE, Washington, DC 20590

Instructions: You must include the agency name and docket number, DOT-OST-2019-0057. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to www.regulations.gov. In order to facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

Docket: For access to the docket to read background documents or comments received, go to <https://www.regulations.gov> or to the street address listed above. Follow the online instructions for accessing dockets.

FOR FURTHER INFORMATION CONTACT: For system-related questions please contact: Nicole Michel, Program Manager. 1200 New Jersey Ave, SE, Washington, D.C. 20590. E-mail: nicole.michel@dot.gov, Tel. (202) 366-4354.

For general and privacy questions, please contact: Claire W. Barrett, Departmental Chief Privacy Officer, Department of Transportation, S-81, Washington, DC 20590, Email: privacy@dot.gov, Tel. (202) 366-8135.

SUPPLEMENTARY INFORMATION:

Background: The U.S. Department of Transportation's (DOT) Federal Motor Carrier Safety Administration (FMCSA) core mission is to reduce commercial motor vehicle-related crashes and fatalities. Pursuant to Section 5404 of the Fixing America's Surface Transportation Act, 2015 (FAST Act), the FMCSA Office of Research will conduct a pilot program to determine the safety benefits or risks posed by allowing military service members aged 18, 19, and 20 with specialized training in heavy vehicle operations to engage in interstate commerce when they are compared to current entry-level commercial motor vehicle (CMV) drivers aged 21-24). The pilot program will also seek to

compare the safety benefits or risks of these military licensed drivers under the age of 21 when operating in interstate commerce when compared to current CMV drivers who are also under the age of 21, but who only operate in intrastate commerce. All CMV drivers in the study will be required to meet all Federal Motor Carrier Safety Regulation (FMCSR) requirements (except age) for operating a CMV in interstate commerce (FMCSR part 383, subparts G and J, require that drivers be tested for knowledge and skills, and part 391 includes additional qualifications, including driver medical examinations). FMCSA will grant an exemption from the regulatory requirement that a Commercial Driver's License (CDL) holder to be 21 years of age prior to operating in interstate commerce for participants in the pilot program. The exemption will allow a limited set of individuals aged 18, 19, and 20 who have received specialized military training and experience in heavy vehicle operations to participate in interstate commerce. FMCSA will recruit motor carriers (carriers) to apply to participate in the pilot program as driver sponsors. Once approved by FMCSA, carriers will recruit under-21 drivers to participate in the pilot program as "covered drivers." Covered drivers will be required to carry a copy of a letter from FMCSA to the approved motor carrier and present the letter during inspections or other encounters with law enforcement. In addition to under-21 drivers with special military training, the program will require that carriers provide participants in each of two control groups. The first control group consists of current entry-level CMV drivers (aged 21-24) who operate in interstate commerce. The second control group consists of current CMV drivers under 21 who participate intrastate in intrastate commerce. Participating motor carriers must be able to supply control group drivers in numbers matching the study group (covered) drivers to be employed. Drivers will be required to submit a background information form, as well as sign an informed consent form to participate in the pilot program to the carrier, who will then provide it to the research team. The driver will provide information about their training and experience, as well as demographic data. If admitted to the study, drivers agree to allow the carrier to send the records

on their driving history and their safety performance to the research team throughout their period of participation. Drivers may choose to leave the pilot program at any time. For participating drivers, the research team will collect safety data from the carrier on a monthly basis, and will perform random checks of participating drivers' license status via FMCSA's Commercial Driver Licensing Information System (CDLIS). The research team will send FMCSA a status report every month highlighting potentially unsafe drivers which FMCSA may use in conjunction with other data maintained by FMCSA to remove a participating driver from the pilot program. Pursuant to 49 U.S.C. § 31315(c)(3) and 49 C.F.R. § 381.515, the FMCSA Administrator has the authority to immediately revoke the participation of a motor carrier, CMV, or driver in the Under 21 Military Pilot Program for failure to comply with the program's terms and conditions. Participation in the Under 21 Military Pilot Program does not provide for any right, entitlement, or benefit.

Privacy Act: The Privacy Act (5 U.S.C. 552a) governs the means by which the Federal Government collects, maintains, and uses personally identifiable information (PII) in a System of Records. A "System of Records" is a group of any records under the control of a Federal agency from which information about individuals is retrieved by name or other personal identifier. The Privacy Act requires each agency to publish in the Federal Register a System of Records notice (SORN) identifying and describing each System of Records the agency maintains, including the purposes for which the agency uses PII in the system, the routine uses for which the agency discloses such information outside the agency, and how individuals to whom a Privacy Act record pertains can exercise their rights under the Privacy Act (e.g., to determine if the system contains information about them and to contest inaccurate information). In accordance with 5 U.S.C. 552a(r), DOT has provided a report of this system of records to the OMB and to Congress. More information about the pilot program is also available via the Privacy Impact Assessment for the program. The PIA,

entitled “Military Under-21 Pilot Program”, can be found at:

www.transportation.gov/privacy.

SYSTEM NAME AND NUMBER:

Department of Transportation (DOT)/Federal Motor Carrier Safety Administration (FMCSA)

010, Military Under 21 Pilot Program System of Records

SECURITY CLASSIFICATION:

Unclassified

SYSTEM LOCATION:

Records in this system are stored electronically by the contractor research team. Contract information is available by contacting the Contracting Officer Representative at: 1200 New Jersey Ave, SE, Washington, D.C. 20590.

SYSTEM MANAGER(S):

The System Manager is Nicole Michel, Program Manager. 1200 New Jersey Ave, SE, Washington, D.C. 20590. Email: Under21Pilot@dot.gov

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 5404 of the Fixing America’s Surface Transportation (FAST) Act (Pub.L. 114-94, Dec. 4, 2015, 49 USC 31305 note).

PURPOSE(S) OF THE SYSTEM:

The system of records will be used to determine the safety benefits or risks posed by allowing military service members aged 18, 19, and 20 with specialized training in heavy vehicle operations to engage in interstate commerce compared to current entry-level CMV drivers aged 21-24 and CMV drivers under 21 who engage in intrastate commerce. Driver background information will be used to qualify drivers for participation in the study and allow for continued

authorization under the carrier's exemption. Demographic and driving history information (miles, hours, shift days, types of vehicles operated, etc.) will be used to analyze and evaluate effects on safety outcomes. Information about Safety-critical events (SCEs), such as hard braking or sudden lane changes that is recorded via an Onboard Monitoring System (OBMS) or electronic control module recording device, as well as crash data, moving violations, violations from inspections will be analyzed for all three groups to determine differences, if any, in safety outcomes of the participating groups. Information in the system of records may also be used to remove unsafe drivers from participation in the pilot program.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The system of records will include information about individuals who are 18- to 20-years-old with military driving experience who apply to operate a CMV in interstate commerce as a part of the pilot program; 21 to 24-year-old CMV drivers who participate in interstate commerce and volunteer to participate in the pilot program; and 18- to 20-year-old CMV drivers who participate in intrastate commerce, and agree to participate in the pilot program.

CATEGORIES OF RECORDS IN THE SYSTEM:

The Military Under 21 pilot will collect, process, transmit, and store the following types of information:

Military Drivers between 18- and 20-years-old:

- From Driver:
 - Qualifying Information: military driver's license number military branch of service and unit Military service dates; and Commanding Officer's contact information (name, duty station, telephone number, e-mail, and physical work address (when available)).

All Drivers:

- From Driver
 - Contact Information: name, email, telephone, home address
 - Commercial driver's license number
 - Demographic Information: driver's date of birth, and gender.
- From Carrier:
 - Carrier Information: Carrier name, Carrier USDOT number, Carrier address, Carrier phone number, and Carrier e-mail address
 - Driver's Experience: Training experience, Driving Experience, Trip-level data on participating drivers (i.e., trip start and end times, miles traveled, total hours driven, type of truck driven, starting and ending location); Number of inspections of participating drivers, and Driver's qualifications (i.e., air brake, air-over-hydraulic braking, or manual transmission)
 - Driving Safety Data: Crash summaries and investigative documents on crashes involving participating drivers (to include DOT reportable crashes and non-DOT reportable crashes), Numbers of violations for participating drivers, Safety critical events experienced by participating drivers (when available), Number of motorist incident reports concerning participating drivers.
 - Data from Onboard Monitoring System (OBMS) or electronic control module recording device
 - Disqualifying events: Alcohol-related citation, or failed a drug test.
- Created by DOT
 - Randomly-generated participant identification number

RECORD SOURCE CATEGORIES

Records are obtained from motor carriers that volunteer to participate in the pilot program, individuals who volunteer to participate in the pilot program, and records retrieved from CDLIS by the Department.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside DOT as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

System-Specific Routine Uses – None.

DOT General Routine Uses

1. In the event that a system of records maintained by DOT to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.
2. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to a DOT decision concerning the hiring or retention of an

employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

3. A record from this system of records may be disclosed, as a routine use, to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.
4. It shall be a routine use of the records in this system of records to disclose them to the Department of Justice or other Federal agency conducting litigation when— (a) DOT, or any agency thereof, or (b) Any employee of DOT or any agency thereof, in his/her official capacity, or (c) Any employee of DOT or any agency thereof, in his/her individual capacity where the Department of Justice has agreed to represent the employee, or (d) The United States or any agency thereof, where DOT determines that litigation is likely to affect the United States, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice or other Federal agency conducting the litigation is deemed by DOT to be relevant and necessary in the litigation, provided, however, that in each case, DOT determines that disclosure of the records in the litigation is a use of the information contained in the records that is compatible with the purpose for which the records were collected.
5. It shall be a routine use of records in this system to disclose them in proceedings before any court or adjudicative or administrative body before which DOT or any agency thereof, appears, when— (a) DOT, or any agency thereof, or (b) Any employee of DOT

or any agency thereof (including a member of the Coast Guard) in his/her official capacity, or (c) Any employee of DOT or any agency thereof, or (d) The United States or any agency thereof, where DOT determines that the proceeding is likely to affect the United States, is a party to the proceeding or has an interest in such proceeding, and DOT determines that use of such records is relevant and necessary in the proceeding, provided, however, that in each case, DOT determines that disclosure of the records in the proceeding is a use of the information contained in the records that is compatible with the purpose for which the records were collected.

6. Disclosure may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual. In such cases, however, the Congressional office does not have greater rights to records than the individual. Thus, the disclosure may be withheld from delivery to the individual where the file contains investigative or actual information or other materials which are being used, or are expected to be used, to support prosecution or fines against the individual for violations of a statute, or of regulations of the Department based on statutory authority. No such limitations apply to records requested for Congressional oversight or legislative purposes; release is authorized under 49 CFR 10.35(9).
7. One or more records from a system of records may be disclosed routinely to the National Archives and Records Administration in records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.
8. DOT may make available to another agency or instrumentality of any government jurisdiction, including State and local governments, listings of names from any system of records in DOT for use in law enforcement activities, either civil or criminal, or to expose

fraudulent claims, regardless of the stated purpose for the collection of the information in the system of records. These enforcement activities are generally referred to as matching programs because two lists of names are checked for match using automated assistance. This routine use is advisory in nature and does not offer unrestricted access to systems of records for such law enforcement and related antifraud activities. Each request will be considered on the basis of its purpose, merits, cost effectiveness and alternatives using Instructions on reporting computer matching programs to the Office of Management and Budget, OMB, Congress, and the public, published by the Director, OMB, dated September 20, 1989.

9. DOT may disclose records from this system, as a routine use, to the Office of Government Information Services for the purpose of (a) resolving disputes between FOIA requesters and Federal agencies and (b) reviewing agencies' policies, procedures, and compliance in order to recommend policy changes to Congress and the President.
10. DOT may disclose records from the system, as a routine use, to contractors and their agents, experts, consultants, and others performing or working on a contract, service, cooperative agreement, or other assignment for DOT, when necessary to accomplish an agency function related to this system of records.
11. DOT may disclose records from this system, as a routine use, to an agency, organization, or individual for the purpose of performing audit or oversight operations related to this system of records, but only such records as are necessary and relevant to the audit or oversight activity. This routine use does not apply to intra-agency sharing authorized under Section (b)(1) of the Privacy Act.

12. DOT may disclose from this system, as a routine use, records consisting of, or relating to, terrorism information (6 U.S.C. 485(a)(5)), homeland security information (6 U.S.C. 482(f)(1)), or Law enforcement information (Guideline 2 Report attached to White House Memorandum, “Information Sharing Environment, November 22, 2006) to a Federal, State, local, tribal, territorial, foreign government and/or multinational agency, either in response to its request or upon the initiative of the Component, for purposes of sharing such information as is necessary and relevant for the agencies to detect, prevent, disrupt, preempt, and mitigate the effects of terrorist activities against the territory, people, and interests of the United States of America, as contemplated by the Intelligence Reform and Terrorism Prevention Act of 2004 (Pub. L. 108–458) and Executive Order 13388 (October 25, 2005).
13. DOT may disclose records from the system, as a routine use to appropriate agencies, entities, and persons when (1) DOT suspects or has confirmed that there has been a breach of the system of records, (2) DOT has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, DOT (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with DOT’s efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.
14. DOT may disclose records from the system, as a routine use to another Federal agency or Federal entity, when DOT determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of

harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records in this system are stored electronically on a contractor-maintained cloud storage service.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records will be retrieved by carrier name, driver name, CDL number, or the randomly generated participant ID assigned by the DOT contractor.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

The FMCSA is in the process of developing a Records Control Schedule (RCS) for pilot programs. FMCSA will request disposition authority for the records from NARA to be held for six months after cutoff, and to be destroyed after 3 years. Until the RCS is approved by NARA, Military Under 21 CMV Pilot Program records will be retained as permanent.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

DOT safeguards records in this system according to applicable rules and policies, including all applicable DOT IT systems security and access policies. DOT has imposed strict controls to minimize the risk of information being compromised. Access to the records in this system is limited to those individuals who have a need to know the information in furtherance of the performance of their official duties, and who have appropriate clearances or permissions.

RECORD ACCESS PROCEDURES:

Individuals seeking notification of and access to any record contained in this system of records, or seeking to contest its content, may submit a request in writing to the System Manager at the address identified in "System Manager and Address" above. If an individual believes more than

one component maintains Privacy Act records concerning him or her, the individual may submit the request to the Departmental Freedom of Information Act Office, U.S. Department of Transportation, Room W94-122, 1200 New Jersey Ave., SE., Washington, D.C. 20590, ATTN: FOIA/Privacy Act request.

When seeking records about yourself from this system of records or any other Departmental system of records your request must conform with the Privacy Act regulations set forth in 49 CFR Part 10. You must sign your request, and your signature must either be notarized or submitted under 28 U.S.C. § 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization. While no specific form is required, you may obtain forms for this purpose from the Chief Freedom of Information Act Officer, <http://www.dot.gov/foia> or 202.366.4542. In addition you should provide the following:

An explanation of why you believe the Department would have information on you;

- Identify which component(s) of the Department you believe may have the information about you;
- Specify when you believe the records would have been created; and
- Provide any other information that will help the FOIA staff determine which DOT component agency may have responsive records.

If your request is seeking records pertaining to another living individual, you must include a statement from that individual certifying his/her agreement for you to access his/her records.

Without this bulleted information the component(s) may not be able to conduct an effective search, and your request may be denied due to lack of specificity or lack of compliance with applicable regulations.

CONTESTING RECORD PROCEDURES:

See “Record Access Procedures” above.

NOTIFICATION PROCEDURES:

See “Record Access Procedures” above.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

Not applicable.

Issued in Washington, DC.

Claire W. Barrett,

Departmental Chief Privacy Officer.

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